

ESTTA Tracking number: **ESTTA190006**

Filing date: **01/31/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	JasonChall
Granted to Date of previous extension	02/06/2008
Address	3419 Hancock Street San Diego, CA 92110 UNITED STATES

Attorney information	Ross A. Epstein The Nath Law Group 112 S. West Street Alexandria, VA 22314 UNITED STATES lsantucci@nathlaw.com, dstarr@nathlaw.com, repstein@nathlaw.com
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Applicant Information

Application No	77155690	Publication date	10/09/2007
Opposition Filing Date	01/31/2008	Opposition Period Ends	02/06/2008
Applicant	Bailey, Shelley 34268 Forest Oaks Drive Yucaipa, CA 92399 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Belts; Bikinis; Hats; Jackets; Jeans; Pants; Pullovers; Shirts; Shoes; Shorts; Socks; Sweat pants; Sweat shirts; Sweaters; T-shirts; Tank tops

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2940068	Application Date	03/31/2004
Registration Date	04/12/2005	Foreign Priority Date	NONE
Word Mark	SIK WORLD PRODUCTIONS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1995/03/01 First Use In Commerce: 1995/03/01 CLOTHING, NAMELY, MENS AND WOMENS SHIRTS, T-SHIRTS, SHORTS, HATS, CAPS, BEANIES, BLOUSES, UNDERWEAR, JACKETS, SWEATSHIRTS, THONGS, PANTIES, AND INFANTWEAR

Attachments	78394130#TMSN.jpeg (1 page)(bytes) Opposition.pdf (13 pages)(746928 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/H David Starr for Ross A. Epstein/
Name	Ross A. Epstein
Date	01/31/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial Number: 77155690
Application Filing Date: April 12, 2007
Mark: SIK INDUSTRIES (design mark)
Date of Publication: October 9, 2007

JASON CHALL,)
)
Opposer,)
)
)
)
v.)
)
SHELLEY BAILEY,)
)
Applicant.)

NOTICE OF OPPOSITION

JASON CHALL, an individual and citizen of the UNITED STATES, having a business address of 3419 Hancock Street, San Diego, California 92110 ("Opposer"), believes that he will be damaged by registration of the mark "SIK INDUSTRIES" shown in Application Serial No. 77155690 (the "Application"), and hereby opposes same. The Application was filed on April 12, 2007 by SHELLEY BAILEY, who is alleged to be an individual and citizen of the UNITED STATES having a business address of 34268 Forest Oaks Drive, Yucaipa, California (the "Applicant"), and is pending for the following goods in Class 25: "belts, bikinis, hats, jackets, jeans, pants, pullovers, shirts, shoes, shorts, socks, sweat pants, sweat shirts, sweaters, t-shirts, tank tops". The Application was published for opposition on October 9, 2007. Opposer has previously timely filed a request for an extension of time to oppose the Application and said

request was granted by the Board with the present extension of time set to expire on February 6, 2008.

As grounds for this opposition, Opposer allege that:

1. Through a related company, Opposer is now and has been engaged in the design, sale and distribution of clothing, namely, mens and women's shirts, t-shirts, shorts, hats, caps, beanies, blouses, underwear, jackets, sweatshirts, thongs, panties and infant wear.

2. Through a related company, Opposer has used and presently uses the marks "SIK WORLD PRODUCTIONS" and "SIK WORLD" in connection with the design, sale and distribution of the products identified in paragraph 1.

3. Opposer is the owner of the registration for "SIK WORLD PRODUCTIONS" (Registration No. 2,940,068 dated April 12, 2005), which registration is valid, subsisting and unrevoked.

4. Since prior to the filing date of the Application, Opposer did use and has continuously used in interstate commerce through a related company the marks "SIK WORLD PRODUCTIONS" and "SIK WORLD" with the various products described in paragraph 1 herein extensively throughout the United States. By reason of such extensive use and promotion, Opposer has attained an enviable reputation for high standards of quality, and the marks "SIK WORLD PRODUCTIONS" and "SIK WORLD" have become distinctive of and associated in the minds of the trade and purchasing public with the Opposer.

5. Applicant's mark and Opposer's mark clearly feature the "SIK" term as the dominant portion of the respective marks. Moreover, both parties display the "SIK" part in an appreciably larger font than the other elements in their use of their marks. (See, attached as Exhibit "A" hereto, printouts from the parties' websites.) The mark "SIK INDUSTRIES" is

nearly identical to Opposer's marks "SIK WORLD PRODUCTIONS" and "SIK WORLD," in appearance, sound and meaning. Furthermore, the goods of the Applicant are related and/or identical to the various products of Opposer as described in paragraph 1 herein and Applicant's goods are likely to move within the same channels of trade and be purchased by the same class of purchaser. Accordingly, the Applicant's mark is likely, when used in association with the goods of Applicant, to cause confusion or to deceive purchasers in the mistaken belief that the goods of Applicant emanate from, are offered for sale, or are sold by Opposer or under Opposer's approval, sponsorship or control, all to the great damage of Opposer.

6. Upon becoming aware of Applicant's activities, Opposer sent communications to Applicant on March 30, 2007 and April 6, 2007 requesting that Applicant cease and desist all activities being conducted under the "SIK INDUSTRIES" mark. In response thereto, Applicant filed the Application for the "SIK INDUSTRIES" mark.

7. Applicant, in connection with the filing of the Application, submitted a sworn declaration, declaring her belief that the Applicant is entitled to use the mark in commerce and that no other person, firm, corporation or association has the right to use the mark in commerce, either in the identical form thereof or in such resemblance thereto as to be likely, when used in connection with the goods of such other person, to cause confusion, mistake or deception.

8. Applicant's declaration in connection with her Application was false when made because Applicant knew she was not entitled to use the mark in commerce inasmuch as Applicant knew that Opposer was the true owner of the mark "SIK WORLD PRODUCTIONS" and "SIK WORLD," and that Opposer was and is entitled to exclusively use the marks in commerce.

9. Applicant's Application is void *ab initio* since Applicant, at the time she filed the Application, was not entitled to use the mark in commerce as required by 15 U.S.C. 1051(b).

10. As a separate and distinct ground for opposition, Applicant's Application should be refused registration because said Application included sworn statements which were fraudulent when made. On information and belief, Applicant knew this declaration was false when made and said declaration was submitted in an effort to deceive and mislead the United States Patent and Trademark Office into granting Applicant a registration to which Applicant would not otherwise be entitled had this fraudulent declaration not been filed. As such, the declaration submitted in connection with the Application constituted fraud on the United States Patent and Trademark Office.

WHEREFORE, Opposer prays that this Notice of Opposition be granted in favor of the Opposer and that Application Serial No. 77155690 be rejected, that no registration be issued thereon to Applicant, and this opposition be sustained to Opposer.

The required filing fee of \$300.00 is submitted herewith.

Opposer hereby appoints Ross A. Epstein, H. David Starr, Lawrence Santucci, and Gary M. Nath, all of the law firm of The Nath Law Group with offices at 112 S. West Street, Alexandria, Virginia 22314, to act as attorneys for the Opposer herein, with full power to prosecute said Opposition, to transact all relevant business with the U.S. Patent and Trademark Office and in the United States Courts.

It is requested that communications be conducted with the below attorney who is authorized to receive all official communications in connection with this Notice of Opposition:

Ross A. Epstein
The Nath Law Group
112 S. West Street
Alexandria, Virginia 22314

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ross A. Epstein", written over a horizontal line.

Ross A. Epstein
H. David Starr
The Nath Law Group
112 S. West Street
Alexandria, VA 22314
(703) 548-6284 (phone)
(703) 683-8396 (facsimile)


Attorneys for Opposer

Dated: January 31, 2008

CERTIFICATE OF SERVICE

This is to certify that I am on this date serving a copy of the within and foregoing upon the Applicant by depositing a true and correct copy of same in the United States Mail in an envelope with sufficient first class postage affixed thereon to ensure delivery, addressed as follows:

Shelley Bailey
34268 Forest Oaks Drive
Yucaipa, California 92399
(951) 756-0373



Ross A. Epstein
H. David Starr
Attorneys for Opposer

Date: January 31, 2008
THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314
(703) 548-6284 (tel.)
(703) 683-8396 (fax.)

Exhibit "A"



- ✕ CATALOG
- ✕ BANDS
- ✕ SIK SHIT
- ✕ PHOTOS
- ✕ NEWS
- ✕ PRESS & PROMO
- ✕ AFFILIATES
- ✕ CONTACT
- ✕ CONTESTS & GIVEAWAYS

- ✕ SEND TO A FRIEND
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- ✕ BABY
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✕ Vote on this idea all ideas

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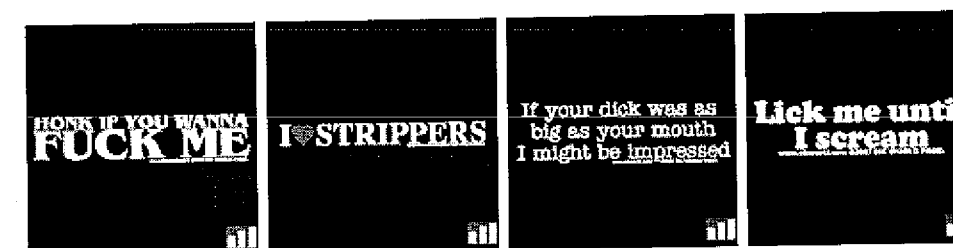
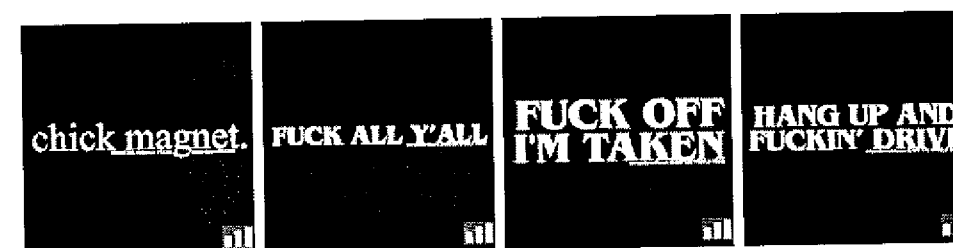
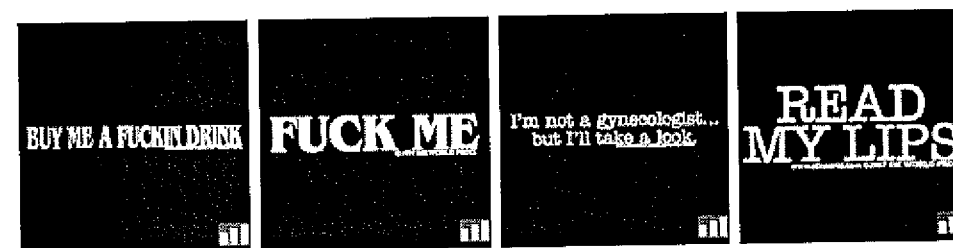
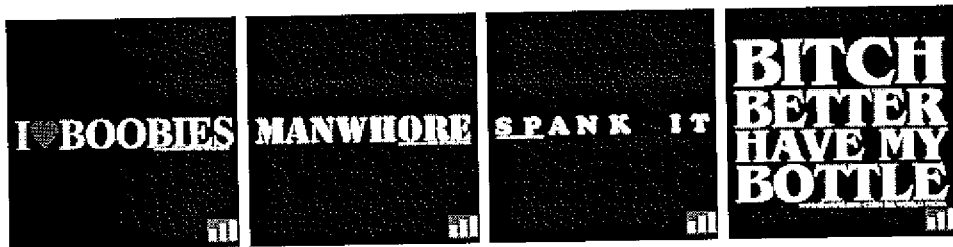
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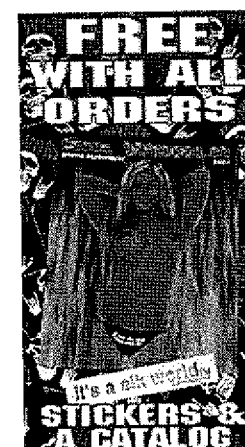
SIK PEOPLE...

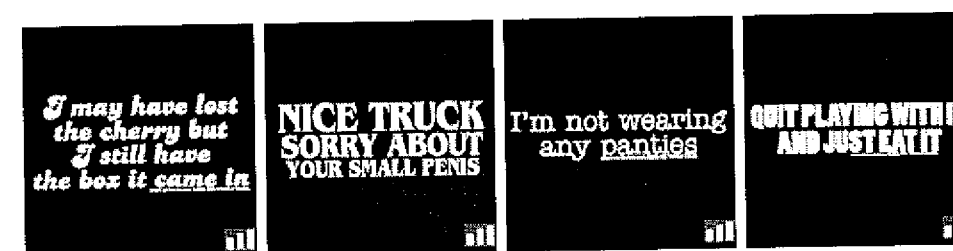
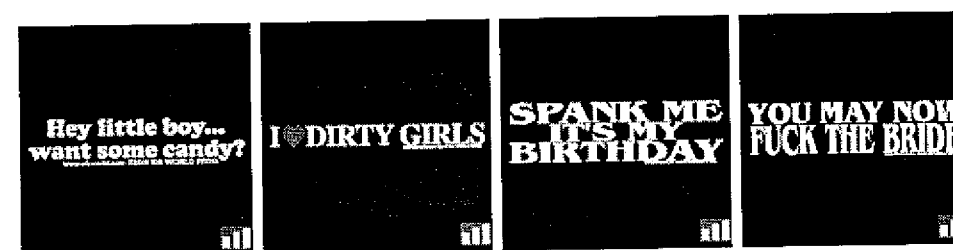
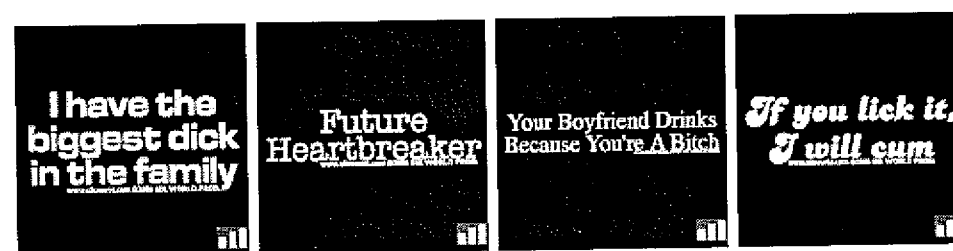
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Promos...





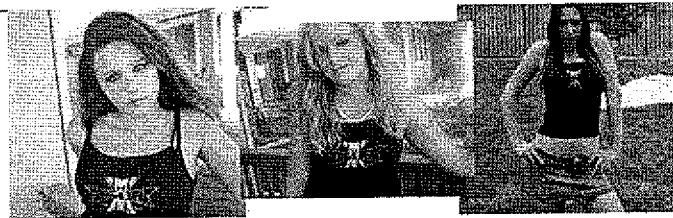
TONS OF GIVEAWAYS INCLUDING
 AN ESP GUITAR AUTOGRAPHED BY STATIC X AND A CHANCE TO
 PARTY WITH SIK WORLD ON A 1 DAY CRUISE TO CABO SAN LUCAS
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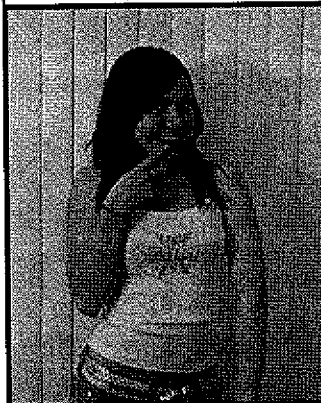
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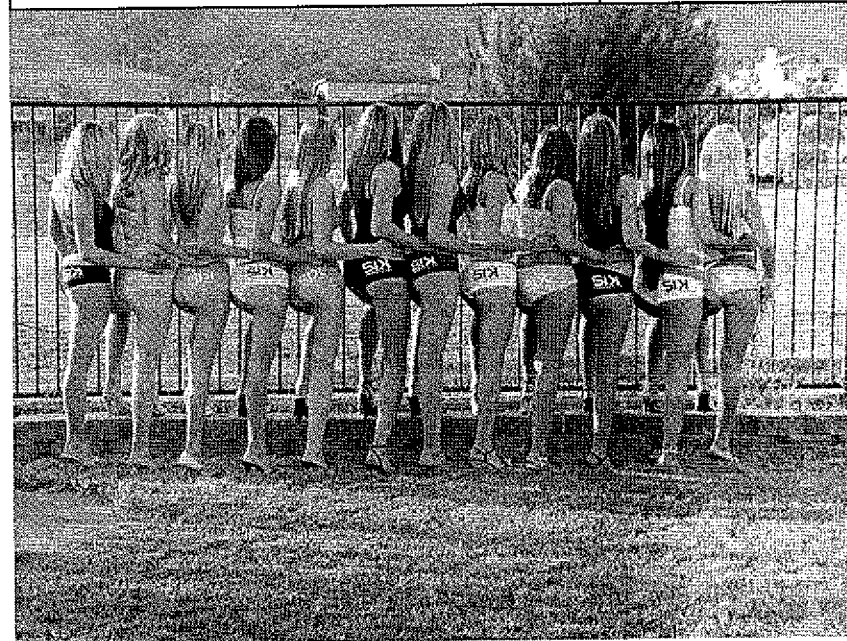
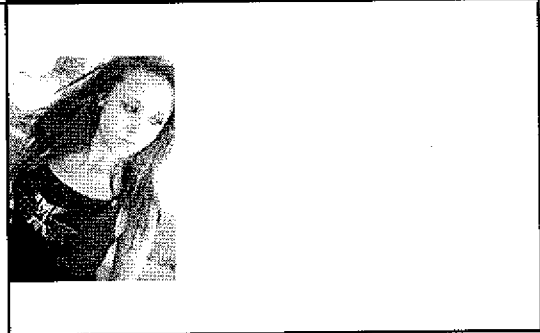
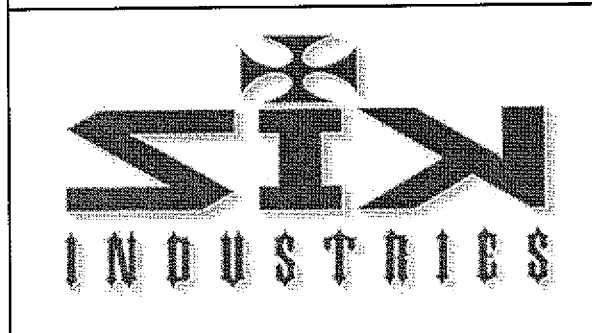
Keeping it FRESH

We're constantly developing SIK new graphics in small production runs, which makes each one of our designs a "limited edition"...don't miss out.

The positive response to our first wave of shirts & hoodies has been overwhelming. Keep an eye out for a full line of SIK accessories coming soon!

Featuring: clothes girls shirts hoodies sik hot tank windbreakers models industries booty shorts rock motocross alternative





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